

July 19, 2010

FILED
IN THE COURT OF APPEALS
AT SAN ANTONIO, TEXAS

To: The 4th Court of Appeals

2010 JUL 22 PM 1:14

Re: Court of Appeals Number: 04-09-00312-CR
Trial Court Number: 2007-CR0-0004520D-3
Gonzalo Artemio Lopez

Keith E. Hatter
DEPUTY CLERK

v.

The State of Texas

The ORDER, dated July 7, 2010, denying my motion to allow counsel to withdraw from my case so that I can file a brief to address certain issues, should be reconsidered because the same case-law the ORDER relied on to deny me, supports my cause.

Hubbard v. State, 739 S.W.2d 341 (TCA1987) is very similar to my situation. On the date I got sentenced, Dec.13,2007; I gave verbal notice of appeal in open court. I asked the trial court to appoint Fausto Sosa as my appellate attorney. I wrote to him numerous times but he never responded. So I wrote the trial court on June 6,2008 to dismiss Fausto Sosa and to appoint the Public Defenders of San Antonio or to let me proceed pro se on my appeal. The trial court appointed the Public defenders.

The Public defenders (Ms. Deborah Letz) notified me that my first attorney, Fausto Sosa, failed to file written notice of appeal within the required 30 days. So I had to file a pro se 11007 habeas corpus to obtain "this" out-of-time appeal.

On May 10,2009, I received notice that my out-of-time appeal was granted. Five days later I filed a pro se motion for a new trial. The first issue I addressed on that motion for a new trial was an ineffective assistance of counsel claim because of some extraneous acts evidence that were admitted at the innocent/guilt part of the trial. These are the same extraneous acts evidence issues that I asked my appellate attorney to address. When my attorney filed the brief and

Sent by

sent me a copy, I asked her why did she not address those issues and can she file a supplemental brief. She answered me on April 14, 2010 and told me that those extraneous acts evidence "didn't really make it in front of the jury". I wrote her again on June 14, 2010 because she had still not answered my question; can she file a supplemental brief under Tex. Rules of App. Proc. Rule 38.7? I told her I was at trial and that I personally witnessed the devastating effect that these prejudicial extraneous acts evidence had on the jury. She wrote me back on June 21, 2010, I received it on June 24th, and she said that she cannot file a supplemental brief to address those issues. "That if [I] would like to file [my] own brief, [I] must ask the Court of Appeals [you] to allow [her] to withdraw" from my case. The very next day, June 25, 2010, I wrote you asking to please allow her to withdraw from my case so that I could file a brief.


All this correspondence has happened before the State has filed their brief.

In the ORDER denying my motion you cite Hubbard Id. at 344 (ability to represent oneself cannot be used to obstruct the orderly procedure in the courts or to interfere with the fair administration of justice). There is nothing in the record to support that I'm out to obstruct procedures or interfere with justice. On the contrary, like Hubbard, I have been the one energetically filing pro se motions seeking justice in my case. If it were not for my pro se filings, I would not have this out-of-time appeal and this one-time opportunity for you to correct the lower court's errors.

And now that my attorney is in error (she is under the impression that the extraneous acts evidence didn't make it to the jury) I am voicing my grievance to you, to seek out fair justice. Because you are the only opportunity I have to address the trial court's flagrant violations of the Texas Rules of Evidence.

So I am asking you to please reconsider my motion to let appointed counsel withdraw from my case so that I can file

my own appellate brief.


Gonzalo Artemio Lopez
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SSB

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7-19-10

Dear Mr Keith Hottle,

Please accept for ~~Keith C. Hottle~~ ^{Keith C. Hottle} letter I've enclosed.

Thank you for your time and help.

Sincerely
Gonzalo A. Lopez

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7820533037

To: Keith E Hottle, Clerk of
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